IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Appeal From Order No. 1010 of 2001
(Old No. 654 of 1986)

Sri Bishan Singh
S/o Sri Kripal Singh,
R/o Village Manjyur, Patti Maniyar,
Distt. Tehri Garhwal. …… Appellant.

Versus

The Principal,
Government Inter College,
Chamba Tehri Garhwal and four others
……..Respondents.

Mr. N.S. Pundir, learned counsel for the appellant.
Mr. Tanuj Semwal, learned counsel for respondent Nos. 2, 4 & 5.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the parties.

2) This appeal, preferred under Section 30 of the Workmen's Compensation Act, 1923, is directed against the order dated 13.06.1986, passed by Workmen Compensation Commissioner / District Magistrate, Tehri Garhwal, in Workmen Compensation Case No. 17 of 1984, whereby claim of the appellant was rejected by the said authority.

3) Brief facts of the case, are that a play ground was being prepared for the students of Government Inter Collage, Chamba, Tehri Garhwal, for which donations were received to the tune of Rs. 16,000/-. Initially, the contract to prepare the playground was given to Kripal Singh (father of the appellant), who left the work after sometime. However, the school teachers appear to have continued the work and the

students and other persons of the village including the appellant contributed their ‘Shram Daan’ to complete the said work. It is not disputed that when the work was on, the appellant received injuries and to permanently disabled, which is also proved from the record. However, the claim was rejected on the ground that there was no relationship of employer and employee, between the respondents and the appellant.

4) Claimant / appellant, Bishan Singh has sought claim from the Principal, Government Inter College, Chamba; Sri Darshan Lal, Physical Training Instructor of that institution; Sri Indra Datt Baidya, a resident of Chamba; Sri Mohan Lal Uniyal, resident of the same place and Sri Bhag Singh, also resident of the same place.

5) Learned counsel for the appellant failed to show that out of these four persons, by whom he was employed and if he was a workman, then who was his employer. It is contended on behalf of the appellant that the Physical Training Instructor engaged him in the work, but the evidence on the record do not establish said fact. Statement of D.W. 1, Bishan Singh, recorded before the Workmen Compensation Commissioner shows that, in the cross examination, this witness (claimant) himself has stated that he was running a shop and respondent Darshan Lal came at his shop and asked him to contribute work for the construction of playground. Not only this, the claimant D.W.1, Bishan Singh has further stated in his cross examination that he used to go to work at his will and was not a regular employee. In view of said statement, the finding arrived at by the

Workmen Compensation Commissioner, cannot be said to be erroneous as there was no relationship of employer and employee, between the respondent and the claimant / appellant. As such, this appeal is devoid of merits.

6) For the reasons as discussed above, the appeal is liable to be dismissed and is hereby dismissed. No order as to costs.

(Prafulla C. Pant, J.)

Dt: March 29, 2006.
H.Negi